

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

B.L., :
Plaintiff, :
v. : 3:15-CV-1327
: (JUDGE MARIANI)
MARIROSA LAMAS, et al., :
Defendants. :

ORDER

AND NOW, THIS 13TH DAY OF FEBRUARY, 2017, upon *de novo* review of Magistrate Judge Carlson's Report & Recommendation, (Doc. 44), **IT IS HEREBY ORDERED THAT:**

1. The Report & Recommendation ("R&R"), (Doc. 44), is **ADOPTED IN PART** to the extent that it is consistent with this Court's accompanying Opinion and this Order.
2. Defendants' Objections, (Doc. 45), are **OVERRULED IN PART AND SUSTAINED IN PART** for the reasons outlined in this Court's accompanying Opinion.
3. Defendants' Motion to Dismiss, (Doc. 12), Plaintiff's Complaint is **GRANTED IN PART AND DENIED IN PART**, specifically:
 - a. Count II of the Complaint, (Doc. 1), is **DISMISSED WITH PREJUDICE** as to all Defendants.
 - b. Count VI of the Complaint, (Doc. 1), is **DISMISSED WITHOUT PREJUDICE** as to Defendants Ferguson and Salamon and **WITH LEAVE TO AMEND** within **fourteen (14) days** from the date of this Order.

- c. Count VII of the Complaint, (Doc. 1), is **DISMISSED WITHOUT PREJUDICE** as to Defendant Salamon and **WITH LEAVE TO AMEND** within **fourteen (14) days** from the date of this Order.
- d. Count VIII is **DISMISSED WITHOUT PREJUDICE** as to all Defendants and **WITH LEAVE TO AMEND** within **fourteen (14) days** from the date of this Order.
- e. Count X of the Complaint, (Doc. 1), is **DISMISSED WITHOUT PREJUDICE** as to Defendants Lamas and Glunt and **WITH LEAVE TO AMEND** within **fourteen (14) days** from the date of this Order.
- f. Count XI of the Complaint, (Doc. 1), is **DISMISSED WITHOUT PREJUDICE** as to all Defendants and **WITH LEAVE TO AMEND** within **fourteen (14) days** from the date of this Order.
- g. Defendants' Motion to Dismiss, (Doc. 12), is otherwise **DENIED**.

4. The following counts remain pending in this action:

- a. Count I – Violation of Eighth Amendment by Sexual Assault against Defendant Zong.
- b. Count III – Violation of Fourteenth Amendment¹ by Invasion of Privacy against Defendants Zong, Rogers, Bumbarger, Foster, Nicholas, Cienfuegos, and Miller.

¹ Although the Complaint says Fourth Amendment, for the reasons outline in the accompany Opinion, the Court interprets this claim as brought under the Fourteenth Amendment.

- c. Count IV – Violation of Fourth Amendment by Unreasonable Search and Seizure against Defendant Zong.
- d. Count V – Violation of Fourth and Eighth Amendments by Failure to Intervene against Defendants Rogers, Bumbarger, Foster, Nicholas, Cienfuegos, Snyder, and Miller.
- e. Count VI - Violation of Fourth and Eighth Amendments by Failure to Supervise against Lamas, Glunt, Harpster, Rogers, and Garman.
- f. Count VII – Violation of Fourth and Eighth Amendments by Failure to Train against Garman, Dooley, and John Does #1, #2, and #3.
- g. Count IX – Violation of Equal Protects Clause of Fourteenth Amendment against Defendants Lamas, Glunt, Ferguson, Dooley, Salamon, Garman, Tice, Hoover, Vance, Harpster, and Rogers.
- h. Count X – Violation of Free Exercise Clause of First Amendment against Defendant Zong.
- i. Count XII – Sexual Assault against Defendant Zong.
- j. Count XIII – Sexual Battery against Defendant Zong.
- k. Count XIV – Intention Infliction of Emotional Distress against Defendants Zong, Glunt, Ferguson, Tice, Hoover, Vance, Harpster, Rogers, Salamon, Bumbarger, Foster, Nicholas, Cienfuegos, and Miller.
- l. Count XV – Defamation against Defendants Bumbarger, Foster, Nicholas, Cienfuegos, and Miller.

m. Count XVI – Invasion of Privacy against Defendants Zong, Rogers, Bumbarger, Foster, Nicholas, Cienfuegos, and Miller.

5. Defendants' Motion for a More Definite Statement, (Doc. 12), is **DENIED**.

6. Plaintiff's Counsel shall, within **fourteen (14) days** from the date of this Order, comply with Federal Rule of Civil Procedure 10 by fully identifying the name of her client or seeking leave to have her client proceed anonymously.

7. The case is **REMANDED** to Magistrate Judge Carlson for further proceedings consistent with this Order.



Robert D. Mariani
United States District Judge